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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,480	03/12/2001	Michael P. Maher	AUROBIO.026DV1	1223
20995 7	590 02/24/2004		EXAM	INER
KNOBBE MA 2040 MAIN ST	ARTENS OLSON &	MURPHY, JOSEPH F		
FOURTEENTH FLOOR			ART UNIT	PAPER NUMBER
IRVINE, CA	92614		1646	
			DATE MAILED: 02/24/2004	1

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)				
	09/804,480	MAHER ET AL.				
Office Action Summary	Examiner	Art Unit				
-	Joseph F Murphy	1646				
The MAILING DATE of this communication a						
Period for Reply						
 A SHORTENED STATUTORY PERIOD FOR REF THE MAILING DATE OF THIS COMMUNICATION Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a lift NO period for reply is specified above, the maximum statutory perior Failure to reply within the set or extended period for reply will, by sta Any reply received by the Office later than three months after the mate earned patent term adjustment. See 37 CFR 1.704(b). 	N. 1.136(a). In no event, however, may a r reply within the statutory minimum of thir od will apply and will expire SIX (6) MON tute, cause the application to become AB	reply be timely filed ty (30) days will be considered timely. ITHS from the mailing date of this communication. SANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on <u>12</u>	<u>2 March 2001</u> .					
2a) This action is FINAL . 2b)⊠ T	2a) This action is FINAL . 2b) This action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
 4) Claim(s) <u>1-24</u> is/are pending in the applicati 4a) Of the above claim(s) is/are withd 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) <u>1-24</u> are subject to restriction and/or 	Irawn from consideration.					
Application Papers 9) The specification is objected to by the Exame						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d)						
Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for fore a) All b) Some * c) None of: 1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the p application from the International Burn * See the attached detailed Office action for a l	ents have been received. ents have been received in A riority documents have been eau (PCT Rule 17.2(a)).	Application No received in this National Stage				
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/	Paper No(08) 5) D Notice of I	Summary (PTO-413) s)/Mail Date nformal Patent Application (PTO-152)				
Paper No(s)/Mail Date	6) 🗌 Other:					

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to a method of characterizing the biological activity of a candidate compound by monitoring changes in transmembrane potential, classified in class 435, subclass 7.2.
- II. Claims 9-13, drawn to a method for modulating the voltage dependent state of an ion channel by modulating the transmembrane potential with a varying wave pulse, classified in class 435, subclass 173.4.
- III. Claims 14-24, drawn to a method for assaying a compound for voltage dependent blocking activity, classified in class 435, subclass 173.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-III are independent and distinct, each from the other, because the methods are practiced with materially different starting materials, have materially different process steps, and are for materially different purposes. Group I is directed to a method of characterizing the biological activity of a candidate compound by monitoring changes in transmembrane potential, which requires the use of a compound, whereas the method of Group II does not require the use of a compound, because the method of Group II is drawn to modulating the voltage dependent state of an ion channel by varying the electric field. The method of Group III is distinct form the other methods because the measurement is of the voltage dependent state of the target ion channel, whereas in the method of Group I, the measurement is of membrane potential. Group II requires the use of a compound, whereas in Group II, no compound is used. Application/Control Number: 09/804,480 Art Unit: 1646

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Murphy whose telephone number is 703-305-7245. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on 703-308-6564. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Joseph F. Murphy, Ph. D. Patent Examiner Art Unit 1646 February 19, 2004